

**AGREEMENT BETWEEN CITY OF BLOOMINGTON, INDIANA
AND
BLOOMINGTON AREA ARTS COUNCIL, INC.**

THIS AGREEMENT is made and entered into by and between the City of Bloomington, Indiana ("City") and the Bloomington Area Arts Council, Inc. ("BAAC").

WHEREAS, BAAC is an Indiana not-for-profit corporation organized for charitable purposes and is exempt from federal income taxation under Section 501 of the Internal Revenue Code and is the owner of real property and improvements, commonly known as the John Waldron Arts Center, located at 122 S. Walnut and 108 W. 4th Street, and also known as Units A and B in the Arts Square Horizontal Property Regime, as established by a Declaration of Arts Square Horizontal Property Regime, dated July 3, 1990, and recorded July 27, 1990, in Misc. Record Book 201, pages 371-412, in the Office of the Recorder of Monroe County, Indiana, together with an interest in all Common Areas of the Arts Square Horizontal Property Regime, as set out in said Declaration and any subsequent amendments thereto (hereinafter called the "Real Estate"); and,

WHEREAS, the BAAC has had title to the Real Estate since it was transferred from the City and the BAAC has raised funds to completely renovate the Real Estate into a usable and vibrant arts center to be utilized by the public and artistic community in and around Bloomington and Monroe County; and,

WHEREAS, the maintenance and upkeep on the Real Estate has been extensive, has drained the BAAC of funds and has severely impacted the ability of the BAAC to fulfill its mission; and,

WHEREAS, the BAAC is dedicated to the continuation of the Real Estate for the educational, artistic, and cultural benefits of Bloomington and the surrounding community; and,

WHEREAS, pursuant to the authority provided by Indiana Code 23-17-20-1, the board of trustees of the BAAC has determined that a decision to dispose of the Real Estate in the usual and regular course of the corporation's activities is a prudent and sound decision based upon the current cost to operate the Real Estate and based upon the current financial condition of the BAAC; and,

WHEREAS, the BAAC strongly believes that the City is in the best position to ensure that the Real Estate continues to be used for the educational, artistic, and cultural interests of the citizens of Bloomington and those in surrounding communities; and,

WHEREAS, the City shares BAAC's desire to ensure that the Real Estate continues to be used to serve the artistic, cultural and educational interests of community groups, individuals and the general public and is willing to accept the Real Estate in order to guarantee that objective is met.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the City and BAAC hereby agree as follows:

1. Pursuant to the terms set forth in this Agreement the BAAC hereby disposes of the Real Estate by quitclaim deed to the City for the valuable consideration set forth in this Agreement.
2. The City shall forgive the Two Hundred Seventy Thousand Dollar (\$270,000) Mortgage originally due on May 1, 2020 and evidenced by the Purchase Money Promissory Note ("Note") and the Purchase Money Real Estate Mortgage ("Mortgage") both recorded on August 3, 1990, in the Office of the Recorder of Monroe County, Indiana. The Note shall be marked and shown as satisfied and a release of mortgage shall be filed with the Office of the Recorder of Monroe County, Indiana to show satisfaction of the Mortgage.
3. The City shall purchase the equipment and property listed on Exhibit "A", which is attached hereto and incorporated herein for the sum of One-Hundred and Fifty Thousand Dollars (\$150,000.00). The BAAC shall retain any income generated by agreements executed with the BAAC prior to Closing but are not paid until after Closing for any use of the Real Estate up to and including July 1, 2010, if any. If payment is made to the City such funds shall be turned over to the BAAC. The BAAC will not execute new contracts with respect to the Real Estate after March 10, 2010. The BAAC shall service any and all contracts executed prior to March 10, 2010, under the terms of the contract(s) at no cost to the City.
4. CLOSING: The closing (the "Closing Date") shall be on or before March 31, 2010, or this Agreement shall terminate unless an extension of time is mutually agreed to by the parties in writing. The City shall deliver the sum referenced to in Paragraph 3 above and the BAAC shall deliver any and all documents necessary to transfer the Real Estate and to complete this transaction at the Closing.
5. The City shall take possession and BAAC shall turn over control of the Real Estate and all equipment and property listed on Exhibit "A" on or before March 31, 2010.
6. After delivery of the quitclaim deed the BAAC shall no longer have any liability for the Real Estate and from that date forward the City shall be responsible for the Real Estate in all respects including, but not limited to, utilities, maintenance and compliance with all contracts with third parties for the use of the Real Estate and the City takes the Real Estate subject to any third party agreements. The City shall specifically take over all utilities and place those in the name of the City and the City shall be responsible for all insurance, including but not limited to, fire, casualty and liability insurance for the Real Estate on the date of Closing going forward.

7. The BAAC shall be able to complete the classes which it has currently scheduled at the Real Estate which classes shall end on or about March 26, 2010. The BAAC shall be permitted, at no cost to the BAAC, to utilize the Real Estate facilities, equipment and property to complete these classes. The BAAC will then vacate these classrooms on or before March 31, 2010. The BAAC specifically retains ownership of those items identified in Exhibit B. Any items, equipment or property not specifically identified on Exhibit B shall remain and become the property of the City. The BAAC is disposing of Real Estate in the usual and regular course of the BAAC's activities and will continue to operate after the disposal. The BAAC will be permitted to remain in the business office (one office suite) while it wraps up its affairs at the Real Estate at no cost until May 31, 2010. The BAAC shall not play any role in the operation of the Real Estate after Closing except as the parties may mutually agree.
8. City has been made aware that independent inspections disclosing the condition of the Real Estate are available and has been afforded the opportunity to require such inspections as a condition of this Agreement. However, City waives inspections and relies upon the condition of the Real Estate based upon the City's own examination and releases the BAAC and its directors, officers, employees and agents from any and all liability relating to any defect or deficiency affecting the Real Estate which release shall survive the closing. The City accepts the Real Estate "AS IS" and the BAAC makes no warranties of any kind in respect to the Real Estate.
9. Within thirty (30) days of the closing date listed in Paragraph 4, BAAC shall fully pay and satisfy any and all debts, obligations and claims that have accrued against BAAC, including but not limited to those associated with the Real Estate, and shall provide the City with proof of the same. The Bank debt to the successor of Irwin Union Bank shall be fully satisfied the date of the Closing.
10. Provided that BAAC complies with Paragraph 9 above, the City agrees to indemnify and hold harmless the BAAC, its directors, officers, employees and agents from any and all claims, liabilities (in tort or in contract), causes of actions whether known or unknown, costs, expenses, including reasonable attorneys that may arise out of this Agreement and which may be brought against the BAAC, its directors, officers, employees and agents by reason of entering into this Agreement by any directors or members of the BAAC or by any creditors of the BAAC for any debts or claims that accrued on or before the date of Closing. This indemnification is part of the consideration for the disposal of the Real Estate and is meant to indemnify the BAAC, its directors, officers, employees and agents from any and all claims that may be brought against the BAAC, its directors, officers, employees and agents for any acts or omissions of the BAAC, its directors, officers, employees and agents that accrued on or before the date of Closing, including any debts or obligations of the BAAC that have not been specifically included in this Agreement.

11. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the transaction and cannot be changed except by their written consent.
12. In case any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
13. This Agreement may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The parties agree that this Agreement may be transmitted between them by facsimile machine. The parties intend that faxed signatures constitute original signatures and are binding on the parties. The original document shall be promptly executed and/or delivered, if required.
14. This Agreement is subject to any necessary approvals as required by law.
15. This Agreement shall be construed according to the laws of the State of Indiana.

IN WITNESS WHEREOF, this Agreement is agreed to, accepted, and executed on the last date noted below.